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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re GAGE R., a Person Coming Under  
the Juvenile Court Law.

B247313  
(Los Angeles County  
Super. Ct. No. CK92485)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

CANDICE R. et al.,

Defendants and Appellants.

APPEAL from an order of the Superior Court of Los Angeles County, Veronica  
McBeth, Judge. Affirmed.

Michelle L. Jarvis, under appointment by the Court of Appeal, for Defendant  
and Appellant Candice R.

Matthew I. Thue, under appointment by the Court of Appeal, for Defendant and Appellant Kenneth R.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, and Tracey Dodds, Deputy County Counsel, for Plaintiff and Respondent.

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The presumed father, Kenneth R., and the mother, Candice R.,<sup>1</sup> appeal from the juvenile court's order assuming jurisdiction over their son, Gage R., pursuant to Welfare and Institutions Code section 300, subdivisions (b) and (j).<sup>2</sup> We affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

On March 9, 2012, the Department of Children and Family Services (DCFS or the Department) filed a juvenile dependency petition in the Los Angeles Superior Court pursuant to section 300, subdivisions (a), (b) and (j).<sup>3</sup> The petition was filed with regard

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<sup>1</sup> Candice R., also known as Candice G., and Kenneth R. are not married. Candice R. simply uses Kenneth R.'s last name.

<sup>2</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

<sup>3</sup> Section 300 provides in relevant part: "Any child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court: [¶] (a) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian. For the purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child's siblings, or a combination of these and other actions by the parent or guardian . . . . [¶] (b) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, or the willful or

to two-month-old Gage R., who resided with his mother, Candice R., and his presumed father, Kenneth R. The petition alleged that pursuant to subdivision (a) of section 300, Gage R. had suffered, or there was a substantial risk he would suffer, serious physical harm inflicted nonaccidentally upon him by Kenneth R. With regard to subdivision (b), it was alleged Gage R. had suffered, or there was a substantial risk he would suffer, serious physical harm or illness as a result of the failure or inability of Kenneth R. to adequately supervise or protect the child. Finally, it was alleged that, pursuant to subdivision (j), Gage R.'s sibling, Blake D., had been abused or neglected by Kenneth R. as defined in subdivisions (a), (b), (d), (e), and (j) and there was a substantial risk Gage R. would be abused or neglected as indicated in those subdivisions.

In support of each of the allegations, it was asserted that on April 28, 2011, "Gage [R.'s] sibling[,], Blake [D.] (DOB: 11/11/2009) was medically examined and found to have sustained injuries including bruising, swelling[] to the left side of [his] face, [swelling of his] inner and outer left ear and the right side of [his] face, while [he,] at age one[,], was in the care and supervision of [his] father, Kenneth [R.] [Blake D.] sustained bruising to [his] face consistent with a handprint. [Blake D.'s] injuries were consistent with . . . being slapped in the face. Such injuries would not ordinarily occur except as the result of deliberate, unreasonable and neglectful acts by the father[, Kenneth R.,] who had care, custody and control of [Blake D.] Such deliberate, unreasonable and neglectful acts on the part of the father to [Gage R.'s] sibling endanger[] [Gage R.'s] physical health, safety and well-being, create[] a detrimental home environment and place[] [Gage R.] at risk of physical harm, damage, danger and physical abuse."

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negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left, . . . or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse. . . . [¶] . . . [¶] (j) The child's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions."

In a non-detention report, also filed in the juvenile court by the DCFS on March 9, 2012, it was indicated the allegation of physical abuse of Blake D. by his father, Kenneth R., had been sustained on January 19, 2012 and that Blake D. had been declared a dependent of the court. The DCFS had been informed of the physical abuse on February 7, 2012. “The CAHL referral [regarding Gage R.] indicated . . . the father, Kenneth [R.], is a violent person and that he was found guilty of abusing his two year old son[,] Blake [D.] (sibling of Gage). [Kenneth R.] was arrested for hitting the two year old and is not allowed to have contact with [him].”<sup>4</sup> The report continued, indicating that, upon receiving this referral, a social worker at the DCFS had received a telephone call from Kenneth R. who wanted to know what was going on because officers from the La Verne Police Department had come to his home the night before. When the social worker explained to Kenneth R. that there had been a referral regarding Gage R. in view of the finding he had physically abused Blake D., Kenneth R. told the social worker “he was not going to cooperate with DCFS and that he was not going to allow any DCFS staff to come into his home.” The social worker then told Kenneth R. that the DCFS “would have no choice but to request a warrant.” When Kenneth R. told the social worker to get one, she applied for an investigative warrant, the application was granted and, on February 22, 2012, she and another social worker, accompanied by officers from the La Verne Police Department, went to Kenneth R.’s home. When the warrant was served, the social workers were allowed to enter the house and see Gage R. The child “was seen to be healthy,” and the social worker “did not observe any marks or bruises on the child.” When the social worker explained that part of the warrant included a physical examination to ensure the health of the child, the mother, Candice R., agreed to take the

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<sup>4</sup> A La Verne police officer who had spoken with Kenneth R. indicated Kenneth R. had told the officer he had been falsely accused of child abuse by his ex-wife, Blake D.’s mother, Christy W.

baby to a pediatrician.<sup>5</sup> The social worker gave a form to Candice R. and asked her to have the doctor fill it out, then forward it to the Department. After the social worker made a follow-up telephone call, the DCFS received the medical form on March 6, 2012.

After consulting with other social workers and dependency investigators, the social worker who had visited Kenneth R.'s home indicated that, "[b]ased on the [fact] that [Kenneth R.] has a history of physical[ly] abusing [Gage R.'s] sibling, . . . [that] Blake [D., the sibling, was] under the supervision of [the] Children's Court," and that "the parents refused to cooperate with DCFS [when it wished] to conduct a full investigation for the safety and health of their son, Gage [R.] . . . , it was decided that DCFS [would] file a non[-]detained petition to ensure the safety and health of the baby, Gage [R.]" The social worker indicated, although "[c]ounseling, [c]ase [m]anagement [and] [p]arent training" were all tools and services which could have prevented the need for further intervention, Kenneth R. had refused to participate in any of them. Accordingly, the social worker "respectfully recommended that the court make the following order: [That] [t]he child Gage be made a dependent child of the court [and] that the father, [Kenneth R.], be ordered to receive counseling and parenting classes[] [and] that [the] child[,] Gage[,] be supervised by DCFS."

A non-detention hearing was held on the matter on March 9, 2012. When the juvenile court inquired, Kenneth R. indicated that Candice R. and Gage R. were not at the hearing because they were staying with relatives in Oklahoma. Kenneth and Candice intended to move to Oklahoma, where Kenneth was "in search of work." The juvenile court then informed Kenneth R. that if it "were to find that Gage [was] a child described by the Welfare and Institutions Code[,] he would have to come back to . . . California, . . . and if [arrangements could not be made] for that to be done in the next day or so then [the court would] have to issue a protective custody warrant for [Gage] and . . . an arrest

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<sup>5</sup> In the application for the warrant, it was asserted Candice R. was Kenneth R.'s girlfriend at the time the court had sustained the allegation Kenneth R. had physically abused his son, Blake D. At that time, Candice R. had made "an extremely inappropriate statement regarding . . . Blake [D.]" and "was restrained from [seeing] Blake [D.]"

warrant for his mother.” The court addressed Kenneth R. and stated: “[R]ight now there is a petition and it talks about the same . . . incident that I’ve already sustained with respect to Blake and why Blake was removed. And it says [Gage] is in danger because of those injuries being sustained that would not have occurred except as a result of deliberate unreasonable or neglectful acts by you, that is why the case is here today.” When Kenneth R. then asked the court to “read what allegations [were being made] against [him,]” the court reiterated the findings that Kenneth R.’s son, Blake, had been found to have suffered injuries which “would not ordinarily [have] occur[red] except as a result of deliberate, unreasonable and neglectful acts by [Kenneth R.] who had [the] care, custody and control of the [child].” The court then stated that the present petition alleged, because Gage R.’s sibling, Blake D., suffered such injuries while in the custody of Kenneth R., Gage R.’s physical health and well being were at risk while he was in the custody of Kenneth R. The court continued: “The allegations say that because this occurred under your watch with Blake[,] that Gage is . . . in a position of significant risk of suffering similar harm.” Kenneth R. responded that the allegations were “100 percent false.”

The juvenile court indicated, in view of Kenneth R.’s denial of the allegations, the matter would be set for a pre-trial resolution conference on April 3, 2012. The court “strongly encourage[d]” Kenneth R., whose request to represent himself in this matter had previously been granted, to have a lawyer appointed to represent him. The court then ordered Kenneth R. to return to court on March 12 for an arraignment hearing and again on April 3 for the pre-trial resolution conference. In addition, the court requested the DCFS to provide it with “a report on . . . [Kenneth R.’s] progress in [Blake D.’s] case.”

Kenneth R., Candice R. and Gage R. were all present at proceedings held on March 12, 2012 and counsel was appointed to represent each individual, including Kenneth R. The juvenile court then directed that counsel appointed to represent Gage R. would also act as his guardian ad litem. The trial court first addressed Kenneth R. and indicated it had been brought to the court’s attention that Kenneth R. might be a member

of the Choctaw Tribe and that the court would “look into that” and determine whether the Indian Child Welfare Act (ICWA) applied.<sup>6</sup> After counsel then waived the reading of the petition and statement of rights on behalf of Kenneth R., counsel entered a general denial to the allegations against him. At the same proceedings, the trial court ordered that “[n]o one [was] to take [Gage R.] outside of the seven Southern California counties” and that the Department was to make unannounced visits to Kenneth R.’s home.

The social worker assigned to Gage R., accompanied by a second social worker, made an unannounced visit to Kenneth R.’s home on March 28, 2012. Candice R., who was at home at the time, refused to be interviewed. In addition, after the social workers entered the house, Candice R. “turned on her digital camera and positioned it in front of [the social workers] and proceeded to record the visit.” During the visit, Candice R. informed the social workers that she and Kenneth R. intended to request another judge as they felt this judge was “ ‘bias[ed].’ ”

At a hearing held before the juvenile court on June 4, 2012, counsel for Gage R. informed the court that Kenneth R. had denied her access to the child, although, as Gage R.’s attorney, part of her duties were to visit the child in his home. The court then informed Kenneth R. and Candice R. that they were to allow visitation from the social worker sent by Gage R.’s attorney as well as the social worker from the DCFS. The court warned Kenneth R. and Candice R. that if they did not allow such visitation, they would be risking “having the child removed from [their] care.” It was also noted by counsel for the DCFS that Kenneth R. had refused to be interviewed, although efforts had been made to do so.

In a report giving “last minute information for the court” filed by the dependency investigator on August 7, 2012, the investigator indicated the assigned social worker had engaged in “face-to-face” contact with Gage R., Candice R. and Kenneth R. in their home

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<sup>6</sup> The DCFS later received a letter from the Choctaw Tribe indicating Gage R. was “eligible for enrollment with the . . . Tribe” and that his father, Kenneth R., was “an enrolled member.” The Tribe, however, indicated it would “not assume jurisdiction at [that] time.”

on three different occasions. Kenneth R. “audio/video record[ed]” each visit without the permission of the social worker and told the social worker he would not participate in any recommended programs “unless he [was] given a written contract guaranteeing closure of his case.” The investigator concluded that, “[g]iven the above facts, DCFS [would] not recommend a dismissal [of the case] pursuant to . . . [s]ection 301.”<sup>7</sup> DCFS ha[d] assessed the appropriateness of entering into a Voluntary Family Maintenance contract with the [family]” and “ha[d] determined it [was] not appropriate to service the family on a voluntary basis, given the substantiated petition on the child Gage’s half-sibling, Blake [D.,] and the fact [Kenneth R.] ha[d] not addressed the issues of physical abuse of the child[.]”

In a second report of “last minute information for the court” dated September 18, 2012, the DCFS investigator indicated that, on September 5, 2012, the social worker had “face-to-face contact” with Candice R. and Kenneth R. during which the social worker asked Candice and Kenneth R. to provide information regarding a proposed trip to Oklahoma. On September 11, 2012, the social worker mailed to both Candice R. and Kenneth R. letters requesting them to contact the DCFS regarding the trip. As of September 18, 2012, the social worker had not heard from either parent.

In a third report of “last minute information for the court” filed in the juvenile court on September 25, 2012, the dependency investigator indicated that, although Candice R. and Kenneth R. had acknowledged that they had received a list of referrals for services from the social worker, Kenneth R. had refused to sign a receipt for them. Finally, the investigator reported that “[a]t this time DCFS is not [in] agreement with a . . . [s]ection 301 on this case given the following information: [¶] 1) The father[,] [Kenneth R.,] has not complied with the court orders dated 05/08/2012 as to the child

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<sup>7</sup> Section 301 provides in relevant part: “(a) In any case in which a social worker, after investigation of an application for petition or other investigation he or she is authorized to make, determines that a child is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the social worker may, in lieu of filing a petition . . . , undertake a program of supervision of the child.”



Gage [R.'s] half-sibling, Blake [D.], such as [participating in] a parenting skills course; individual counseling, and anger management. [¶] 2) The father[,] [Kenneth R.,] has not taken any responsibility for the physical abuse of the child [Blake D.,] Gage [R.'s] half-sibling. . . . He blames the mother of the child Blake [D.] for the child's sustained injuries. [¶] 3) Given the court ordered services for the father[,] [Kenneth R.,] of a parenting skills course; individual counseling, and anger management, it would require a longer period of services than that of . . . [s]ection 301 in order for the father . . . to comply with such orders. [¶] Therefore, DCFS is not in agreement in entering [into] a . . . [s]ection 301 contract with this family and [is] not recommending it."

After all parties received proper notice, the matter was adjudicated at proceedings held on February 7, 2013. When counsel for both Kenneth R. and Candice R. then indicated they would not be presenting any evidence, the juvenile court heard their arguments. Counsel representing Kenneth R. requested "that the petition filed on March 9th, 2012 be dismissed in its entirety." Although counsel recognized that the juvenile court had sustained allegations Kenneth R. had inflicted injuries on Gage R.'s sibling, Blake D., counsel did not believe the Department had met its burden of showing there was a substantial risk Kenneth R. would injure Gage R. "in the near future." Counsel noted that, at times Kenneth R. had not been "the most cooperative with the Department," but indicated that was "not a basis for the court to take jurisdiction." Finally, counsel asserted Gage R. had been in the custody of Kenneth R. and Candice R. for almost 11 months and, during that time, there had been no "concerns [for] the child's welfare and well-being." Counsel for Candice R. stated that Candice R. would join in the arguments made by Kenneth R.'s counsel and request that the petition be dismissed. Finally, counsel appointed to represent Gage R. also joined in the arguments made by Kenneth R.'s counsel and asked "the court to dismiss the petition in its entirety."

Counsel for the Department disagreed "wholeheartedly" with the arguments for dismissal of the petition. Counsel indicated part of the reason this matter had taken so long to reach adjudication was because, although the Department had attempted to work

with them, both Kenneth R. and Candice R. had “refused to cooperate.” In addition, counsel argued the court should specifically consider the “severe” injuries inflicted on Gage R.’s half-sibling, Blake D. The injuries had to be considered especially extreme when one recognized the young age of the child on whom they were inflicted. Moreover, both Kenneth R. and Candice R. had been uncooperative not only with regard to Gage R.’s case, but in terms of discussing Blake D.’s case. Under these circumstances, the court could only speculate as to “what the difference would be between that child and this child, why [Kenneth R.] would be so horrific to [Gage R.’s] half sibling” and not to Gage R. Counsel continued: “Maybe [Blake D.] was developmentally at an age that frustrated [Kenneth R.] more. The court is not going to know because [Kenneth R.] has not been forthcoming [regarding what] led to the cause of these injuries. The bottom line [is Gage R.] is similarly situated.” Finally, counsel for the Department indicated that, because Kenneth R. and Candice R. had been so uncooperative, it was highly unlikely they would participate in any of the programs recommended by the Department unless ordered to do so by the court. This argument was bolstered by the fact that Kenneth R. had “failed to participate in the sibling[] Blake [D.’s] case plan and that case . . . closed out without [Kenneth R.] reunifying with [Blake D.] and because he failed to participate” in any programs the Department had recommended. Counsel for the Department concluded by stating that the Department was not asking that Gage R. be removed from the custody of the parents. It was asking the court to sustain the petition and order Kenneth R. to participate in the services offered him in order to avoid injury to the child, Gage R.

After considering all of the arguments, the juvenile court indicated it was “very concerned about [Kenneth R.’s] anger issues.” The court continued: “However, [the] mother [is] the one significant difference in [Gage R.’s case as opposed to Blake D.’s case.] . . . [¶] [But] I don’t think that that’s a strong enough reason for me to find that [Kenneth R.] is not a risk to Gage[, particularly since Kenneth R.] is refusing to participate in any programs.” The juvenile court sustained the petition, finding by “more

than a preponderance” of the evidence “that Gage is at risk because of the injuries sustained by his brother[, Blake D.,] at a similar age, and there have been no steps taken whatsoever [to avoid such a result].” The juvenile court indicated it had hoped that “at some point there could be a [section] 301 contract. . . . [However,] [t]he absolute failure [of Kenneth R.] to cooperate in any way shows . . . a certain lack of concern, and that as well as the failure to take any programs to ameliorate the situation that brought the earlier case and now this one before the court is of great concern to the court. [¶] So I am going to sustain the petition [with regard to subdivisions (b) and (j)] and find that Gage [R.] is a child described by . . . [section] 300[.]” The juvenile court then ordered Kenneth R. to participate in certain programs, including anger management, parenting class and individual counseling. The court noted that, given these programs and services, there was no “need at this time for removal [of Gage R.] from [the] parents.”

Kenneth R. and Candice R. filed timely notices of appeal from the juvenile court’s order on February 7, 2013.

### **CONTENTIONS**

Kenneth R. and Candice R. contend that, from the juvenile court’s rejection of the allegation Gage R. suffered a substantial risk of the infliction of intentional physical harm by Kenneth R. pursuant to subdivision (a) of section 300, while at the same time finding that the child faced a risk of serious physical harm pursuant to subdivisions (b) and (j), the juvenile court implicitly found Gage R. suffered a risk of physical harm associated only with parental neglect and there is no substantial evidence of such neglect. Further, Kenneth R. and Candice R. assert evidence of a previous act of the infliction of physical harm or neglect, standing alone, is insufficient to establish a future risk of harm. Accordingly, the trial court erred by assuming jurisdiction over Gage R.

### **DISCUSSION**

At a jurisdictional hearing, “ ‘proof by a preponderance of evidence, legally admissible in the trial of civil cases must be adduced to support a finding that the minor is a person described by Section 300.’ (§ 355.)” (*In re Sheila B.* (1993) 19 Cal.App.4th

187, 198.) “[T]he purpose of the provisions of this chapter relating to dependent children is to provide maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are *at risk* of that harm.” (§ 300.2, italics added.) “On appeal from an order making jurisdictional findings, we must uphold the court’s findings unless, after reviewing the entire record and resolving all conflicts in favor of the respondent and drawing all reasonable inferences in support of the judgment, we determine there is no substantial evidence to support the findings. [Citation.] Substantial evidence is evidence that is reasonable, credible, and of solid value. [Citation.]” (*In re Veronica G.* (2007) 157 Cal.App.4th 179, 185.)

Here, Kenneth R.’s and Candice R.’s assertion there is no evidence to support the juvenile court’s finding Gage R. fell within the provisions of subdivisions (b) and (j) of section 300 as a result of neglect is without merit. As stated above, subdivision (b) initially provides that a child comes within the jurisdiction of the juvenile court if “[t]he child has suffered, or there is *a substantial risk* that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, *or* the willful or negligent failure of the child’s parent or guardian to adequately supervise or protect the child from the conduct of the [child’s] custodian . . . .” (Italics added.) Here, the evidence established not only that Gage R.’s half-brother, Blake D., was severely injured while in the custody of Kenneth R. when he was the approximate age that Gage R. was at the time of the adjudicatory proceedings, it established that Kenneth R. refused to acknowledge the injuries were inflicted while Blake D. was in his custody. The record also establishes that both Candice R. and Kenneth R. refused to cooperate with the DCFS and failed to follow its recommendations that Kenneth R., in particular, attend anger management, counseling and parenting classes. This evidence caused the juvenile court to be legitimately concerned that Kenneth R.’s “anger issues” and apparent “lack of concern” would cause

him to be unable to properly supervise or protect Gage R. and that Gage R. would be subject to a substantial risk Kenneth R. would inflict upon him serious physical harm.

Much of the same evidence supports the juvenile court's assumption of jurisdiction over Gage R. pursuant to section 300, subdivision (j). As noted above, that subdivision provides in relevant part that a juvenile court may assume jurisdiction over a child when "[t]he child's sibling has been abused or neglected . . . and there is a substantial risk that the child will be abused or neglected . . . ." In the present matter, even after it was determined that Gage R.'s half-brother, Blake D., had sustained serious injuries while in Kenneth R.'s custody and that those injuries could "not ordinarily [have] occur[red] except as the result of deliberate, unreasonable and *neglectful* acts by [Kenneth R.]" (italics added), Kenneth R. refused to acknowledge having inflicted the injuries or to cooperate with the DCFS with regard to either the case involving Blake D. or the case involving Gage R. Evidence of Kenneth R.'s refusal to address what the juvenile court referred to as his "anger issues" and his reported propensity for violence substantially support the juvenile court's finding that "Gage is at risk because of the injuries sustained by his brother at a similar age, and [because] there have been no steps taken whatsoever [to avoid such a result]."

Kenneth R. relies on *In re Ricardo L.* (2003) 109 Cal.App.4th 552, 565, which relies on *In re Rocco M.* (1991) 1 Cal.App.4th 814, 824 and *In re Janet T.* (2001) 93 Cal.App.4th 377, 388 for the proposition that, although evidence of past conduct may be probative of current conditions, " 'the question under section 300 is whether the circumstances at the time of the hearing subject the minor to the defined risk of harm.' " Kenneth R. asserts "[i]t was at best speculative to believe that Gage faced a substantial risk of serious physical harm based on his isolated and largely unexplained neglect of Blake."

Kenneth R.'s reliance on *In re Ricardo L.*, *supra*, 109 Cal.App.4th at page 565 and the cases on which it relies is misplaced. Although the juvenile court relied on the finding Blake D. had suffered serious injuries while in the custody of Kenneth R., it also considered Kenneth R.'s refusal to acknowledge that Blake D. had been injured while in his care, his refusal to address his "anger issues" and his refusal to address his reported propensity for violence, both of which are substantially supported by evidence of his conduct when dealing with the DCFS. The evidence showed Kenneth R.'s adamant refusal to participate in Blake D.'s case plan resulted in the case closing without Kenneth R. reunifying with Blake D. It also established that Kenneth R. had refused to participate in any programs the Department had recommended or the court had previously ordered with regard to Blake D. and the programs recommended by the Department with regard to Gage R. Under these circumstances, it cannot be said that in reaching its decision, the juvenile court considered only evidence of the injuries inflicted upon Blake D. The court also gave great weight to evidence indicating that, since that incident, conduct by Kenneth R. indicated there was a substantial risk Gage R. could also suffer substantial physical harm. "Given the totality of the circumstances[,] . . . we cannot say the [juvenile] court's finding that [Gage R. is] at substantial risk of physical and emotional harm was unreasonable or lacked [] sufficient evidentiary support in the record." (*In re J.K.* (2009) 174 Cal.App.4th 1426, 1440.)

**DISPOSITION**

The juvenile court's order is affirmed.

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

ALDRICH, J.

We concur:

KLEIN, P. J.

KITCHING, J.